



## U.S. Department of Justice

United States Attorney  
Southern District of New York

The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007

July 17, 2020

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**BY ECF AND EMAIL**

Honorable Valerie E. Caproni  
United States District Court  
Southern District of New York  
40 Foley Square  
New York, New York 10007

**MEMO ENDORSED**

**Re: *United States v. Lanier*, 15 Cr. 537 (VEC) / *Lanier v. United States*, 18 Civ. 8220 (VEC)**

Dear Judge Caproni:

The Government respectfully requests, with the consent of defendant Kareem Lanier through his counsel, that the Court stay further briefing and proceedings on Lanier's pending petition pursuant to 28 U.S.C. § 2255 until an *en banc* panel of the Second Circuit issues a ruling in *United States v. Scott*, 18-163. As the Court is aware, the Court's Order of June 5, 2020 (Dkt. 1499) caused the appointment of counsel to represent Lanier in connection with his Section 2255 petition, and directed the parties to supplement their previously-filed briefing on Lanier's Section 2255 petition to address the March 31, 2020 decision of a three-judge panel of the Second Circuit in *United States v. Scott*, 18-163. Since the Court's June 5 Order, a poll of the judges of the Second Circuit was taken and a majority of the active Second Circuit judges voted in favor of rehearing the *Scott* appeal *en banc* per the attached Order of the Second Circuit dated July 10, 2020. In order to conserve the resources of the Court and the parties and avoid any risk of the Court ruling on Lanier's Section 2255 petition based on the March 31 *Scott* decision in a manner that may end up being inconsistent with the *en banc* ruling of the Second Circuit in *Scott*, the parties jointly request that this Court stay further briefing and proceedings on Lanier's Section 2255 petition until after the Second Circuit issues an *en banc* ruling in *Scott*.

Application GRANTED. No later than 21 days after the issuance of the *en banc* ruling in *Scott*, the parties must submit a joint letter, either informing the Court of an agreed-upon resolution of Mr. Lanier's petition or proposing a briefing schedule.

SO ORDERED. Date: 07/17/2020

*Valerie Caproni*

HON. VALERIE CAPRONI  
UNITED STATES DISTRICT JUDGE

Respectfully submitted,

AUDREY STRAUSS  
Acting United States Attorney

By: /s/  
Samson Enzer  
Gina Castellano  
Andrew C. Adams  
Assistant United States Attorneys  
(212) 637-2342 / -2224 / -2340

18-163

*United States v. Scott*

United States Court of Appeals  
FOR THE  
SECOND CIRCUIT

ORDER

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 10<sup>th</sup> day of July, two thousand twenty.

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United States of America,

*Appellant,*

v.

18-163

Gerald Scott,

*Defendant-Appellee.*

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A poll having been conducted and a majority of the active judges of the Court having voted in favor of rehearing this appeal *en banc*, IT IS HEREBY ORDERED that this appeal be heard *en banc*. See Fed. R. App. P. 35(a). Scheduling information will be forthcoming.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk

Catherine O'Hagan Wolfe

